IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WRS, INC.

Plaintiff

vs. Civil Action No. 00-2041

PLAZA ENTERTAINMENT, INC., et al

Defendants

PROCEEDINGS

Transcript of Oral Argument held on Wednesday, January 31, 2007, United States District Court, Pittsburgh, Pennsylvania, before Honorable Arthur J. Schwab, U.S. District Judge.

APPEARANCES:

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P R O C E E D I N G S

(Whereupon, Court convened at 8:45 a.m.)

KATHY SEEWALD, Law Clerk: Please be seated.

THE COURT: Good morning.

This is the time and place that's been set to answer some questions I have relating to plaintiff's motion for summary judgment as to damages, which is filed at Document No. 113 in Civil Action No. 00-2041, which has been transferred to me by Order of the Chief Judge of the United States District Court for the Western District of Pennsylvania.

To put this in context, the Court, by Order of July 21st, 2006, granted summary judgment in the plaintiff's favor against the defendant on a surety agreement.

There was also a motion filed by the defendant for summary judgment to deny any damages to the plaintiff, and I denied that particular motion.

So we are in that particular context, that liability has been found against the defendant, and we're to determine the amount of damages, if any. That, obviously, preserves the right to the defendant to raise on appeal any issues they had relating to liability and damages.

The issue that I want to deal with is that I have specific questions I want to ask both sides, so get your papers out. We're going to get into the details, because the real issue to me is whether defendant has raised, by proper filings of record, genuine issue of material fact as to the specific items of damage.

Now, I'm going to start with plaintiff's counsel, and I would ask respectfully that each of you answer the specific question I ask.

I've read all your arguments. If you don't have an answer, there's nothing wrong with saying you don't have an answer. But please stay focused on the question that I am raising.

All right. Now, counsel for the plaintiff, defendant, if you wish, I would like you to go to Docket No. 128, which is Mr. Napor's -- N-A-P-O-R -- affidavit dated October 16th, 2006. It's Document No. 128-16. Is that before you, sir? It's his main affidavit he filed in the damage claims.

MR. REILLY: Yes, sir, I have to access it. It's here.

KATHY SEEWALD, Law Clerk: It's also 115.

THE COURT: It's also filed at 115.

MR. REILLY: Yes, I believe I have it.

THE COURT: Do you want to go to Page 5, please.

MR. REILLY: Yes, Your Honor.

THE COURT: Okay. You want to hold that page up so I can see and make sure we're on the same page?

MR. REILLY: Is it the signature page of his affidavit?

THE COURT: No.

KATHY SEEWALD, Law Clerk: Page before.

THE COURT: Page 5 of 43 pages.

KATHY SEEWALD, Law Clerk: The page before the signature page.

MR. REILLY: Okay, Your Honor. I have that.

THE COURT: No.

KATHY SEEWALD, Law Clerk: Here, I have two of them.

THE COURT: Okay. Defense counsel, you want to get to the same place, please.

MR. REILLY: Yes, Your Honor. I have it.

THE COURT: All right. Now, at Paragraph 16, Page 5 of Document No. 128-16; may have some other numbers. It was filed separately. But the first number is $1,270,683.34; correct?

MR. REILLY: That's correct, Your Honor.

THE COURT: What document supports that number that's of record?

MR. REILLY: That number, I believe, is the December 31st, 2000 balance shown by the -- I'm not sure of the exact document of record, but I believe it's attached. But it was the number that the Schneider Downs people arrived at and said was the accurate number as of that date.

THE COURT: All right. I appreciate if both of you really listen to my question, because it's going to be important to both of you to answer what I ask.

So I want to know what, what is the document of record? What I'm looking at says it's Exhibit 2, and I just want to verify that if one goes to Exhibit 2, one would find that number.

MR. REILLY: Your Honor, I believe that is the total number shown on the second to last page of Exhibit 2, $1,270,683.34. It's in the center of the page.

THE COURT: Now, the document as it appears in the record, Exhibit 2, is very illegible. Some of the numbers I can read, some I can't.

MR. REILLY: Yes, Your Honor.

THE COURT: You need to go on line, please, and file a document, or send it to us, since everything needs to be filed electronically.

The problem is, it looks like it's a computer print-out, and when it's filed electronically, it doesn't come out as clear as it should be. So you need to make an effort and to sometime this week get it either as a separate document, or as a refiling or something, so that Exhibit 2 attached to the affidavit is clear. So when this goes up on appeal, when the Court of Appeals goes to the document, they can see the document. If it's illegible when it's transferred electronically, that's not going to be helpful to them.

MR. REILLY: Your Honor, I understand the difficulty, Your Honor. It's a much longer document, green and white paper printed out, probably 18 to 22 inches wide. And we attempted to copy it and reduce it so that it could be electronically filed. But I will find a way to make that happen.

THE COURT: Okay. That would be helpful.

And what I'm looking at is Exhibit 2 of the Napor affidavit. Starts at Page 18 of 43 pages, Document No. 128-16.

Now then, that was the total as of December 31st, 2000. Then there were additional adds and subtracts to that total to bring it current to August 3rd, 2001; correct?

MR. REILLY: That's right, Your Honor.

THE COURT: And those transactions in and out, are they set forth on Exhibit 1 of the Napor affidavit?

MR. REILLY: Yes, Your Honor.

THE COURT: Okay. And that document does seem to be much clearer. And if I look at Page 17 of the 43 pages of Document 126-00, 128-16, I find the total of $1,324,841.61; correct?

MR. REILLY: That's correct, Your Honor.

THE COURT: So we've talked about the total as of December 31st, 2000; we talked about the total updated to August 3rd, 2001.

Walk me through the interest calculation based on the total amounts of accounts receivable that we just discussed.

Let me be a little more pointed. Did somebody sit down and calculate on a month-by-month running total the interest at the 1.5 percent?

MR. REILLY: Yes, Your Honor. I did that myself.

THE COURT: Okay. Where are the calculations that show that?

MR. REILLY: That's a good question. I believe I did it on my computer, and then just distilled the number into this document, and then showed it to Mr. Napor and had him verify that it was accurate.

I can tell you what I did, and then I can perform those calculations and file those calculations, if the Court would want. But what I did was I subtracted out the finance charges that were included in the December 31st number so that I would have essentially a principal balance, as opposed to principal and interest. Then I multiplied --

THE COURT: Is that because you don't believe interest should be on interest?

MR. REILLY: That's correct.

THE COURT: Okay.

MR. REILLY: Then I --

THE COURT: So the record is clear, you took the total of December 31st, 2001, which is $1,270,683.34. You took out of that number whatever the interest component of that total was, ended up with a net amount for the account receivables, exclusive of finance charges, as of December 31st, 2001 of $1,042,477.84.

MR. REILLY: That's correct.

THE COURT: And then, from that point, you took that amount and you rolled that forward at 1.5 percent per month; correct?

MR. REILLY: That's correct, Your Honor.

And I think that the 63.42 was the number of months that transpired from July 1st, 2001 until October 13th, 2006, which was the date I performed the calculations.

THE COURT: But you determined that the monthly charge on that $1,042,477.84 was $15,637.17 per month.

MR. REILLY: That's correct.

THE COURT: And from that point, then, you calculated how many months it was from January 1st, 2001 to the end of your calculation period, which was October 13th, 2006; correct?

MR. REILLY: That's correct, Your Honor.

THE COURT: That's how you got the $991,709.17;

correct?

MR. REILLY: That's correct.

THE COURT: And as of record, Mr. Napor, in his affidavit, verified that that was an accurate number; correct?

MR. REILLY: That's correct.

THE COURT: And then, you took that total of what the balance was as of August 3rd, 2007, and of $1,324,841.61, and you added to that, then, the interest, which was $991,709.17; correct?

MR. REILLY: That's correct.

THE COURT: And that gave you a total as of October 13th, 2006 owed for the account receivables and the interest of $2,316,550.72; is that correct?

MR. REILLY: 78 cents, Your Honor.

THE COURT: 78 cents; that's correct.

MR. REILLY: That's right.

THE COURT: How does that number tie, then, to your proposed Order of Court attached to your motion for summary judgment as to damages, which is Docket No. 113-2?

MR. REILLY: That's a pretty good question. Let me find that.

MR. SIEMINSKI: Your Honor, I would just point out, you said a date, 2007. I think you meant, 2006.

THE COURT: Yes, I did. Thank you for the correction. Appreciate that.

MR. REILLY: I do -- you have the copy of that Order? May I look at it, as opposed to just going through my file?

Your Honor, I believe, and subject to being mathematically corrected, that in addition to the principal balance that I started with in the Order, I added the storage charges, plus the finance charges on the storage charges and the total due under the services agreement.

I believe that -- and fix that as a principal amount, which was $1,205,827.84, upon which the finance charge should accrue, meaning that there is -- that the storage charges and the $125,000 due under the services agreement, I believe -- I think this is -- well, let me look at it.

I believe that what I did was take the $125,000 due under the services agreement, and the storage charge, 38,350, add that to the principal balance of $1,042,477.84, to come to a principal balance as of the date of my calculation, and then have interest run on that, as opposed to, again, accruing interest on interest. But I have to perform the calculation again to make sure that's 100 percent accurate.

But what I was doing was quantifying the storage charges and the total due on the services agreement as a part of the principal, so that the interest would not run on interest.

THE COURT: Do you believe that there should be interest on the storage charges, and why?

MR. REILLY: I believe it's a part of the terms and conditions of the account arrangement between WRS and Plaza to pay the storage charges. It arises, I think, under the terms and conditions, not under the services agreement, but at the terms and conditions as part of the account agreement.

THE COURT: Where does the right of interest come from? Because the invoice has the stamp on there of the one and one-half percent a month on the unpaid balance.

MR. REILLY: I believe that's correct.

THE COURT: Now, in the service agreement what, what creates the right to, and from the plaintiff's perspective, of right to interest on the service agreement, if any?

MR. REILLY: I can't tell you that. I don't know that there's a provision that says that. I don't recall there being one.

THE COURT: Do you believe that the number in your proposed Order of Court of $1,205,827.84 includes the accounts receivable total, plus the storage charge total, plus the service agreement total?

MR. REILLY: I'm going to figure that out, if you give me a minute; make sure.

THE COURT: Take a moment, please.

MR. REILLY: Your Honor, I believe it includes $125,000 for the payments due under the services agreement and the 38,350 in storage charges, plus the original principal balance of $1,042,477.84.

THE COURT: And when you calculated the interest, you included the service agreement charges of $125,000 in that calculation?

MR. REILLY: Um, I believe that in that calculation, I think I was requesting interest, 1.5 percent per month from October 13th, when I calculated this.

THE COURT: No. When you calculated the proposed Order of Court, did you include an interest component relating to the service agreement?

MR. REILLY: Give me a minute and I'll let you know. Let me be sure.

MR. SIEMINSKI: Your Honor, I just would like to note for the record that Mr. Reilly is --

THE COURT: Just be patient, just be patient.

MR. SIEMINSKI: Your Honor, I would like to make a comment for the record, please.

THE COURT: Okay, fine.

MR. SIEMINSKI: I would like to note for the record that Mr. Reilly is performing a series of calculations.

THE COURT: Of course he is. He just said he was doing that.

MR. SIEMINSKI: I wanted it to be clear on the record, Your Honor.

THE COURT: That's why we're here.

MR. REILLY: Your Honor, I believe that I included the $12,080.25 shown as the total interest on storage charges as part of the $2,527,029.03 as a sum that was owed as of October 13th. So, that would incorporate 1.5 percent per month on the 38,350 as calculated.

So yes, I believe that there is interest included in that figure on -- excuse me -- on the storage charges, but there is no interest calculated on the $125,000 of the services agreement.

THE COURT: Okay.

And that's because there's nothing in the agreements that provide that the defendants are responsible for an interest component on the service agreement; correct?

MR. REILLY: That's accurate, Your Honor.

THE COURT: And I appreciate that there are differences in the numbers, but that's because different documents were filed at different times, which would impact the calculation of interest, depending on when the document was filed.

MR. REILLY: That's right, Your Honor.

THE COURT: Now I'm going to focus on, and have been focusing on, not what the lawyers have filed as lawyer papers, but what are the affidavits of record in this case, because that's what really joins the factual basis for the purpose of summary judgment.

Now, in the service agreement, how many months did you include in that calculation?

The reason why I asked the question, some places I see 17 months, other places I see 25 months. That may be because of when different things were filed. But the affidavit I'm relying upon for our discussion today has $125,000. So how many months is that?

MR. REILLY: There were 25 months, Your Honor. I believe that's shown in Paragraph 15 of the affidavit.

THE COURT: What's the source of the 25 months?

MR. REILLY: It's from the beginning of the agreement, which was August -- or excuse me -- October of 1998 until the end of 2000, I believe.

THE COURT: Okay. So from November, 1998 through December of 2000; correct?

MR. REILLY: That's correct.

THE COURT: Where does the 17 months come from?

MR. REILLY: I believe in October of 2000 is when we commenced the action, so that the 17 months would be from -- it's leading up to about when we prepared the complaint, I believe.

THE COURT: So you believe the reason why it's now 25 months, as opposed to 17, is more months have passed, or passed between the calculation of the 17 months versus the 25 months?

MR. REILLY: I believe that's accurate, Your Honor. It may have been July of 2000 when we calculated the $80,000.

THE COURT: Okay. Counsel, you've been eager to speak, so now I will give you your opportunity to speak.

First of all, what has been filed, please, that disputes a particular line reference in Exhibit 2 of Document 128-16?

In other words, Exhibit 2 attached to the October 16th, 2006 Napor affidavit sets forth the account receivables allegedly owed as of December 31st, 2000.

What affidavit has been filed of record that challenges any or all entries on that document specifically?

MR. SIEMINSKI: My client's affidavit challenges the amount specifically, because it, it points out that there are a number of unanswered questions as to how that amount was arrived at.

THE COURT: Okay. I'll ask you again, as clearly
as I can.

Where in that affidavit is a particular line
challenge that the amount on the line is $100, but should
have been $90?

MR. SIEMINSKI: There is no such challenge.

THE COURT: Okay. Thank you for your candor. I appreciate that.

Is the same true as to Exhibit 1, which deals with the new charges between December 31st, 2000 and August 3rd, 2001?

MR. SIEMINSKI: As the Court frames the question, yes.

THE COURT: Thank you.

Now, have you calculated -- strike that.

Is there anything of record filed by the defendant, or on behalf of the defendant, under oath, that challenges the calculation of interest which produces the total of $991,709.17, sir?

MR. SIEMINSKI: Not a calculation per se, Your Honor.

THE COURT: Okay. Other than saying there should not be any interest charged, is there anything of record that says the amount of interest should be 700,000, or 600,000 or 500,000, as opposed to the 991,000?

MR. SIEMINSKI: No, Your Honor.

THE COURT: Is there anything of record that challenges the calculation of a storage charge totaling 38,350?

MR. SIEMINSKI: Again, not the calculation per se, but certainly the record is replete with challenges to the entitlement.

THE COURT: Okay. But if there's an entitlement -- and again, you may convince the Third Circuit I was incorrect about this, and I respect that -- but if there is an entitlement, is there anything of record that disputes the plaintiff's calculation that the total charges for storage is $38,350?

MR. SIEMINSKI: Not that calculation, per se. But again, I would be remiss unless I referenced all of the other issues that I think are before the Court.

THE COURT: Do you have any reason to doubt the interest calculation relating to the storage charges, which interest calculation totals $12,080.25?

MR. SIEMINSKI: Yes, Your Honor. Because there are significant doubts raised as to the principal, by definition, there would have to be significant doubts raised as to the interest.

THE COURT: I apologize. My question maybe isn't clear.

I preserve; you preserve. You've done everything you can to preserve your rights as to liability. Today I want to focus on the damages.

So, if one took the $38,350 for storage charges and applied the one and a half percent, is there anything of record in this case that says that the plaintiff's calculation of $12,080.25 is inaccurate?

MR. SIEMINSKI: No.

THE COURT: Do you agree with me that the service agreement amount owed of $125,000 should not bear an interest component?

MR. SIEMINSKI: Yes, because I would suggest to the Court that there's no amount whatsoever that is attendant to the services agreement that should be attributed to my client.

THE COURT: Okay. So you think, if I determine that there's moneys owed under the service agreement, you believe there should be interest or not interest?

MR. SIEMINSKI: Not interest.

But of course, I disagree with the premise, respectfully.

THE COURT: No, I appreciate that. And I think you've done an excellent job of, in your papers of making that clear. I think you've done a very good job, and your client should be proud of you.

All right. Let's turn to the attorney's fee petition, if you would for me, please. And that's made up of two affidavits that have been filed by Mr. Reilly. One has a total of $86,748, which has been supplemented by an affidavit of $6,020.

Now, attorneys fees are made up, appears, of two components.

One is an hourly rate; is that correct?

MR. REILLY: I believe it's all an hourly rate, Your Honor. There's two different hourly rates that applied during the --

THE COURT: But it's hourly rate times number of hours; correct?

MR. REILLY: That's right.

THE COURT: And the two hourly rates were $175, and then $200 an hour.

MR. REILLY: That's correct, Your Honor.

THE COURT: On behalf of the defendant, is there any affidavit filed, or anything else of record challenging the reasonableness of those dollar amounts in the Western Pennsylvania marketplace?

MR. SIEMINSKI: No, Your Honor.

THE COURT: And then, there are certain number of hours set forth on those two affidavits.

Is there anything of record challenging those hours, the calculation of those hours?

MR. SIEMINSKI: The strict mathematical calculation, Your Honor?

THE COURT: Correct.

MR. SIEMINSKI: No.

THE COURT: Is there anything of record that challenges the reasonableness of the number of hours that are included within the two affidavits?

MR. SIEMINSKI: Yes.

THE COURT: And where is that, please?

MR. SIEMINSKI: Your Honor, in -- I believe it's in my brief. We pointed out that there are multiple entries in the records filed by Mr. Reilly that would indicate he was giving general business advice to WRS and to Mr. Napor. He was providing advice about issues associated with Mr. Napor being ejected from his building. He was providing bankruptcy advice. And obviously, that is not something that falls within the purview of the suretyship agreement.

THE COURT: Where in an affidavit is there a challenge to the number of hours?

MR. SIEMINSKI: It's not in an affidavit, Your Honor, it's in a brief.

THE COURT: Do you have -- you want to respond to what he said, please?

MR. REILLY: Yes, Your Honor. I, I haven't had pointed out to me specifically the time entries that the brief intends to refer to. In my response brief, or response, I attempted to elaborate on what I thought might be referred to, and I will attempt to explain.

I, after the WRS entity was in bankruptcy, I had to be appointed by the Bankruptcy Court in order to represent WRS, and I was appointed in the bankruptcy proceeding. There were certain instances when I may have been in bankruptcy to present my motion to be appointed, but that was all as part of my representation of WRS on this case.

Secondly, the issues as framed in the original complaint dealt with matters beyond simply how much is owed on the guarantee and whether the guarantee is enforceable. It dealt with the ability of WRS to enforce its purported security interest in the materials that were in storage at WRS, including the possibility of exploiting the copyrights that may have belonged to the parties who owned the, for lack of a better term, software in the, in the films. And --

THE COURT: You want to close the door, please? Thank you.

MR. REILLY: And my efforts with respect to recovering the obligation owed by Plaza to WRS were not only directed at suing Mr. Herklotz, but in an effort to determine whether those assets could be realized upon. In particular, whether there could be a proceeding instituted in the

Bankruptcy Court that would bring in all the right holders and in some way preclude them from challenging WRS's ability to exploit the content of the videos.

That was never accomplished, but it was something that was considered in the pursuit of this obligation, and as part of, and in conjunction with the suit that we filed here, because the number of counts that we've sort of abandoned requested a declaration that we had those rights.

So, I was not WRS's business lawyer. I was retained for the specific purpose of pursuing this obligation and all the rights appendant and attendant thereto. And that's what my time and efforts were directed to.

THE COURT: Okay. In your first affidavit, which is dated October 13th, 2006, in Paragraph 8 you state that the total amount that you were seeking in that affidavit of $86,748 was, in fact, with, quote, with respect to the enforcement of the obligation owed by Plaza Entertainment, Inc. and its guarantors to WRS Inc., close quote.

MR. REILLY: That's right.

THE COURT: Okay. Is that a true statement?

MR. REILLY: That's a true statement.

THE COURT: Okay. Again, there are documents attached to that affidavit. I would just ask for you to go on line and make sure the supporting documentation is clear.

MR. REILLY: I can put it page -- instead of making six to a page, I'll put one to a page. That will do it.

THE COURT: Well, just go on line. The easiest thing to do is go on line and see what -- and see if it's clear.

MR. REILLY: Okay.

THE COURT: Just see if each of these exhibits.
And the same thing for the defendant. Anything that's attached that's a number sheet, just make sure that it's clear digitally when you bring it up on line. And if there's anything that isn't, then please file a supplement or a clean copy that can be, that can be read.

MR. SIEMINSKI: Your Honor, Your Honor, may I briefly comment?

THE COURT: I'm going to give you a lot of time.

MR. SIEMINSKI: Okay.

THE COURT: All right. Thank you. Again, you've been patient with me. I thank you for that. And tell me whatever you would like to tell me, please.

MR. SIEMINSKI: Your Honor, two specific points on what was just discussed.

First of all, Mr. Reilly suggested that it had not been pointed out to him on the record as to where there were issues with his legal fees. On Page 18 of the brief I filed on behalf of Mr. Herklotz, there's an indication that there are issues associated with Mr. Reilly's invoices, which are marked as Pages 91 and 92.

So there are items on the record that suggest that there are significant material factual issues with the legal fees that Mr. Reilly now seeks to have Mr. Herklotz, my client, pay.

Secondly, there were references to Plaza Inc. and its guarantors. I would just point out to the Court that there are a number of guarantors of Plaza Inc. that are reflected on the record that are not my client, Mr. Herklotz. And so, that raises an issue of material fact as to the parties against whom legal fees should be sought.

Now, those were specific comments to specific questions, but if the Court is giving me the opportunity to make a broader statement, I would certainly --

THE COURT: Certainly.

MR. SIEMINSKI: -- avail myself.

THE COURT: Certainly. Please.

So you can speak to anything we've discussed today, or anything you wish to discuss relating to the, to the pending motion.

MR. SIEMINSKI: Your Honor, I just would suggest -- and I appreciate the opportunity to do that. I would just suggest that although the suretyship agreement purports to be unconditional, it does not give WRS a license to be commercially unreasonable, both in terms of specific business transactions and in terms of time.

In terms of specific business transactions, there's a suggestion on the record that what WRS did after it procured Mr. Herklotz's suretyship agreement, which has sometimes been referred to in the case as a guarantee, because that's what the document is entitled, that WRS just used that as a, as a license, so to speak, to run up a tab on Plaza's account that it never would have done in the absence of the guarantee.

There have to be some reasonable legal limits on what someone in WRS's position is allowed to do under these circumstances. And I won't belabor those, because as the Court indicated, they are set forth in my client's affidavit, they are set forth in my brief.

But a guarantee is a commercial document. It's not a license to print money on somebody else's behalf.

And in terms of the time, the temporal aspect, there has to be some legal limitation. And I would respectfully suggest it's not the year 2006, or when the clock stops ticking on Mr. Herklotz's account. I mean, we've gone over calculations that run to the year 2006.

The suit was filed in the year 2000. I mean, this is not a situation, I would suggest to the Court, where just because Mr. Herklotz signed the guarantee document, it, it extends into perpetuity, which is the position WRS has essentially taken with this case.

Secondly, I would direct the Court's attention, and I know the Court has read it, but it's a very important document in context, obviously, is my client's affidavit. My client is an accountant, and my client participated in the

Schneider Downs review of WRS's financial materials.

My client, as an accountant, has significant issues with the manner in which Schneider Downs performed its review. Schneider Downs essentially did a mechanical ticking and tying verification of numbers that are contained in WRS's financial documents, without ever, as far as I can see, or my client can see, making any sort of forensic investigation into what was behind those numbers. That needs to be further examined. And the, the forum for that is, is a trial on damages, Your Honor.

In addition, at the trial on damages that's required by this record, this very confused record as far as I'm concerned, Mr. Herklotz should have the opportunity to cross examine Mr. Napor about any aspect of Mr. Napor's affidavit.

Finally, in terms of the finance charges. My client pointed out, I think it's important to point out again here this morning, 40 percent of the amount that WRS is seeking is finance charges and interest. And so, Your Honor, when you, you view the facts, all the facts of record in the light most favorable to Mr. Herklotz, as you're required to do, there are significant issues of material fact that remain in this case that should preclude summary judgment and do call for a trial on damages.

THE COURT: On the service agreement, I thought the service agreement calculations ended in December, 2000 and did not come down to 2006 at all, for any purpose.

Am I missing something?

MR. SIEMINSKI: That may be true for the services agreement. I was referring to the interest.

THE COURT: Okay. Well, yeah. I mean, the interest comes down, obviously. But the, the running of the service agreement charges ends, I thought, at December, 2000; that the storage charges appear to come down to, into 2006, and the account receivables ended in August, 2001. And so, except for the, obviously, the interest coming down.

All right. Anything else you would like to share with me today, please?

MR. SIEMINSKI: Your Honor, if I said anything more, what I would be doing is paraphrasing my client's affidavit, and I don't want to do that.

THE COURT: I can assure you, I've read the affidavit.

MR. SIEMINSKI: I know Your Honor has.

I guess the last point that I would make is a point that my client did make, that alleges, though Schneider Downs purports to have performed a review of every aspect of the charges, if you take a close look at the Schneider Downs report, Your Honor, there are significant unanswered questions, there are significant red flags, and there are a significant number of transactions that Schneider Downs could not trace at all. And these pertain to this lock box arrangement in particular.

And I think one would be very hard-pressed to read the Schneider Downs report and come to a conclusion is that Schneider Downs had examined everything that was necessary to be examined in what would be an appropriate forensic examination of the WRS financial records.

THE COURT: Thanks to both of you for your hard work. Fortunately, I have an accounting background which makes it a little easier for me. But I do thank you for your labors and for both counsel's thoroughness and zealous representation of your clients. Thank you.

MR. REILLY: Thank you, Your Honor.

MR. SIEMINSKI: Thank you, Your Honor.

THE COURT: Have a great day.

(Recess at 9:35 a.m.).

KATHY SEEWALD, Law Clerk: All rise. This Court now stands in recess.

* * * * *

I certify by my original signature herein that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

S/Virginia S. Pease
Official Reporter